

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \* \* \*

UNITED STATES OF AMERICA,  
Plaintiff,

vs.

JACOB LILL, ET AL.,  
Defendants.

**JUDGE JAMES C. MAHAN'S  
ORDER REGARDING TRIAL**

2:11-cr-0310-JCM-CWH

1. Attached hereto is a list of cases that are presently scheduled for trial before the **Honorable James C. Mahan, United States District Judge, at Las Vegas, Nevada**, commencing on **MONDAY the 9<sup>th</sup> day of SEPTEMBER, 2013, at 9:00 a.m. This is a two-week trial stack.**

2. Counsel for all parties in the civil and criminal cases shall appear in Courtroom **6A** on **WEDNESDAY, the 4<sup>th</sup> day of SEPTEMBER, 2013 at 1:30 p.m.** for calendar call. Unless a party in a civil case or a defendant in a criminal case is appearing pro se, the individual parties in civil cases and the defendants in criminal cases will not be required to appear for calendar call unless the court directs otherwise.

3. Counsel or their clients will be excused from calendar call if prior to the scheduled calendar call settlement papers have been filed in a civil case or a defendant's plea of guilty or nolo contendere has been accepted in a criminal case.

4. **At calendar call**, all cases that remain to be tried will be ranked in order of trial. Thereafter, the court will not grant a continuance to any party absent a showing of good cause. Unless the court otherwise directs, the cases will be tried one after the other on **TWENTY-FOUR (24) HOURS'** notice from the clerk.

1   **5. CHANGE OF PLEA HEARINGS.** Change of plea hearings will be set on the first available  
2 date on the court's calendar. It shall be the joint responsibility of counsel for the United States and  
3 for defendants(s) to ensure that the original and two copies of the plea agreement (or a plea  
4 memorandum in cases of no plea agreement), together with a copy of the indictment, are delivered  
5 to David Oakes, deputy clerk. **Change of plea hearings will not be heard at calendar call, and**  
6 **will not be set until a signed courtesy copy of the plea agreement (or a plea memorandum) is**  
7 **either delivered directly to David Oakes, deputy clerk and or faxed to chambers.** It shall  
8 further be the responsibility of counsel for the United States to ensure that any necessary produce  
9 orders, or writs of habeas corpus ad prosequendum are timely delivered to the United States  
10 marshal to ensure the presence of all in-custody defendants for a change of plea, and to ensure  
11 proper notification for the attendance of any court interpreter which may be required for the  
12 particular case.

13   **6. STATUS HEARING.** The court may conduct a status conference prior to the scheduled  
14 calendar call. If the court is satisfied during the status conference that the case is ready for trial, the  
15 court may vacate the calendar call.

16   **7. WITNESSES.** Counsel shall immediately subpoena all witnesses for the time and trial date  
17 as listed above. Inasmuch as the cases will be tried in a trailing fashion, the subpoenas should  
18 contain a special instruction from counsel directing witnesses to contact the office of counsel for  
19 further instructions prior to appearing for trial. Witnesses are not required to be present at the  
20 calendar call but must appear as subpoenaed.

21   **8. EXHIBITS.** At calendar call counsel shall supply Judge Mahan's courtroom deputy clerk  
22 with the **original and one copy** of a complete exhibit list of all exhibits that are intended to be  
23 used during the trial. At the same time, counsel shall serve upon opposing counsel a copy of the  
24 same. **Numerals** shall be used to identify all exhibits. **Plaintiffs' exhibits** shall be marked **1**  
25 **through 500.** **Defendants' exhibits** shall be marked **501 through 1000.** Exhibits that are on the  
26 same subject matter may be marked as a series: that is, Plaintiff's 1-A, 1-B, etc., and Defendant's  
27 501-A, 501-B, etc. The exhibits shall be listed on the form to be provided by the clerk and  
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1 pursuant to the instructions as shall be supplied by the clerk. Counsel may use computer-generated  
2 exhibit lists so long as they conform to the requirements of the form that is provided by the clerk.  
3 Counsel shall retain possession of their exhibits until such time as they are identified in open court;  
4 afterward, the exhibits shall remain in the custody of the clerk, unless otherwise ordered.

5 9. **MARKING EXHIBITS.** During preparations for trial, counsel for all parties shall meet,  
6 confer, and exchange all trial exhibits at calendar call.

7 10. **WITNESS LISTS:** At calendar call, counsel and any party appearing pro se, shall file  
8 with the courtroom deputy clerk a **list of witnesses** expected to be called on behalf of each party  
9 for use by the court during jury selection.

10 11. **STATEMENT OF THE CASE:** At calendar call, counsel and any party appearing pro se  
11 shall file with the courtroom deputy clerk a brief statement of the case, no longer than one-half  
12 page, stating the nature of the claims and offenses, to be read to prospective jurors at the time of  
13 jury selection. In a criminal case, a copy of the Indictment, indicating which portions should be  
14 read to the jury, will satisfy this requirement.

15 12. **JURY INSTRUCTIONS IN CRIMINAL CASES.** Counsel are to comply with the  
16 “Order Regarding Pretrial Procedure.” At calendar call, counsel are required to jointly file one  
17 set of agreed-upon proposed jury instructions and form of a verdict at calendar call to the  
18 Court both in document form and on computer disk in WordPerfect format. The parties are  
19 further advised that the undersigned district judge has developed his own “stock” or “general” jury  
20 instructions drawn principally from the **Manual of Model Criminal Jury Instructions for the**  
21 **Ninth Circuit.**

22 13. **GOVERNMENT’S TRIAL MEMORANDUM.** In all criminal cases, Plaintiff United  
23 States shall file its original **government’s trial memorandum** under seal at calendar call and  
24 shall also provide a reading copy for the court. The government’s trial memorandum shall be  
25 served on counsel for defendant on the date trial commences.

14. **JURY INSTRUCTIONS IN CIVIL CASES.** In all civil cases to be tried before a jury, counsel and any parties appearing pro se are required to **jointly file one set of agreed-upon jury instructions and form of a verdict at calendar call both in document form and on computer disk in WordPerfect format.** To meet this requirement, the parties are required to serve their proposed jury instructions upon each other at least two weeks prior to trial and file those with the court on the date indicated in the pretrial order, and to thereafter confer to arrive at a single set of jointly agreed upon jury instructions. To the extent the parties are unable to agree as to the form of any particular instruction(s), each party shall also file at **calendar call** the jury instruction(s) which are not agreed upon together with the respective arguments and authorities of the parties in support thereof.

The parties are further advised that the undersigned district judge has developed his own “stock” or “general” jury instructions drawn principally from the **Manual of Model Civil Jury Instructions for the Ninth Circuit.** Therefore, the efforts of the parties in preparing the jury instructions in compliance with this order should be focused on developing special jury instructions which relate to the particular claims and defenses at issue as well as those relating to the damages and any special evidentiary matters pertinent to the case.

All proposed jury instructions submitted by the parties should be concise, understandable, and neutral statements of law. Argumentative jury instructions are improper, will not be given, and should not be submitted.

15. **TRIAL BRIEFS, PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW.** To the extent they have not already done so in accordance with the court’s joint pretrial order, counsel for all parties, and any party appearing pro se, shall file an original and two copies of a trial brief in all civil cases at **calendar call.** Additionally, in all civil cases to be tried before the court sitting without a jury, the parties shall file proposed findings of fact and conclusions of law at **calendar call.** Counsel wishing to utilize the court’s evidence display equipment must contact the courtroom deputy to determine its availability and to arrange for training.


1 16. **TRIAL JUDGE.** Although the cases that are listed on the attached trial calendar are assigned  
2 to Judge Mahan, the cases may proceed to trial before another Nevada district judge or a visiting  
3 district judge.

4 17. **CONSENT TO TRIAL BEFORE A MAGISTRATE JUDGE.** Counsel and parties in  
5 civil actions are reminded of their right to consent to disposition before a United States magistrate  
6 judge pursuant to Title 28, Section 636(c)(2) of the United States Code. The right to proceed  
7 before a magistrate judge in a civil case includes those cases that will be tried before a jury as well  
8 as those cases to be tried before the court sitting without a jury. Any appeal from a judgment in a  
9 proceeding before a magistrate judge shall be taken directly to the United States court of appeals.  
10 The option to proceed before a magistrate judge is available to the parties at the time an action is  
11 commenced. The court may refuse to approve consent if it appears to be motivated by an effort to  
12 delay the proceeding.

13 18. **SANCTIONS.** As provided for under the local rules of practices of this court, the court  
14 will consider the imposition of sanctions against any attorney who: **(1)** fails to timely file trial  
15 briefs, suggested voir dire questions and proposed jury instructions or proposed findings of fact and  
16 conclusions of law, whichever is applicable, as prescribed by the pretrial order, order regarding  
17 pretrial procedure, scheduling order or any order extending the time for such filings; **(2)** fails to  
18 comply with the provision of this order including, but not limited to, the failure to appear for  
19 calendar call without first having been excused by the court or the clerk with the permission of the  
20 court; or **(3)** fails too timely comply with any other order that schedule deadlines for trial  
21 preparation.

22  
23 19. **CONTACT PERSON.** All questions and information regarding the trial calendar are to  
24 be directed to **DAVID OAKES**, Courtroom Deputy Clerk, at **702-464-5413**.

1 20. The date of the clerk's file mark shall constitute the date of this order.  
2 IT IS SO ORDERED.  
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5 JAMES C. MAHAN  
6 United States District Judge  
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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA  
LAS VEGAS, NEVADA  
COURTROOM 6A

**MONDAY, SEPTEMBER 9, 2013**

PRESENT:

THE HONORABLE JAMES C. MAHAN, U.S. DISTRICT JUDGE

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David Oakes

Courtroom Administrator

Law Clerk(s)

Joy Garner

Reporter/Recorder

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**9:00 A.M.**

2:11-cr-00310-JCM-CWH

**JURY TRIAL**

UNITED STATES OF AMERICA

v.

JACOB LILL (1)

(On Bond)

COUNSEL FOR GOVERNMENT:

Daniel Hollingsworth, AUSA

James Keller, AUSA

Bradley Giles, AUSA

Michael Humphreys, AUSA

COUNSEL FOR DEFENDANT:

James Oronoz, CJA

**JURY TRIAL**

EDMUND SCHROBACK (2)

(On Bond)

COUNSEL FOR GOVERNMENT:

Daniel Hollingsworth, AUSA

James Keller, AUSA

Bradley Giles, AUSA

Michael Humphreys, AUSA

COUNSEL FOR DEFENDANT:

Todd Leventhal, CJA

**JURY TRIAL**

MICHAEL SAVINO (6)

(On Bond)

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA  
LAS VEGAS, NEVADA  
COURTROOM 6A

**MONDAY, SEPTEMBER 9, 2013**

PRESENT:

THE HONORABLE JAMES C. MAHAN, U.S. DISTRICT JUDGE

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David Oakes

Courtroom Administrator

Law Clerk(s)

Joy Garner

Reporter/Recorder

---

**9:00 A.M.**

COUNSEL FOR GOVERNMENT:

Daniel Hollingsworth, AUSA

James Keller, AUSA

Bradley Giles, AUSA

Michael Humphreys, AUSA

COUNSEL FOR DEFENDANT:

Robert Langford, Esq.

**JURY TRIAL**

ANA MARTINEZ (7)

(In Custody)

COUNSEL FOR GOVERNMENT:

Daniel Hollingsworth, AUSA

James Keller, AUSA

Bradley Giles, AUSA

Michael Humphreys, AUSA

COUNSEL FOR DEFENDANT:

Gabriel Grasso, CJA



UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA  
LAS VEGAS, NEVADA  
COURTROOM 6A

**MONDAY, SEPTEMBER 9, 2013**

PRESENT:

THE HONORABLE JAMES C. MAHAN, U.S. DISTRICT JUDGE

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David Oakes

Courtroom Administrator

Law Clerk(s)

Joy Garner

Reporter/Recorder

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**9:00 A.M.**

2:11-cr-00405-JCM-PAL

UNITED STATES OF AMERICA

v.

**JURY TRIAL**

DARYL GALTNEY (1)

(On Bond)

COUNSEL FOR GOVERNMENT:

Phillip Smith, AUSA

COUNSEL FOR DEFENDANT:

Lance Maningo, CJA

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA  
LAS VEGAS, NEVADA  
COURTROOM 6A

**MONDAY, SEPTEMBER 9, 2013**

PRESENT:

THE HONORABLE JAMES C. MAHAN, U.S. DISTRICT JUDGE

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David Oakes

Courtroom Administrator

Law Clerk(s)

Joy Garner

Reporter/Recorder

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**9:00 A.M.**

2:12-cr-00289-JCM-PAL

UNITED STATES OF AMERICA

v.

**JURY TRIAL**

TYRONE DAVIS (1)

(In Custody)

COUNSEL FOR GOVERNMENT:

Cristina Silva, AUSA

COUNSEL FOR DEFENDANT:

Todd Leventhal, CJA

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA  
LAS VEGAS, NEVADA  
COURTROOM 6A

**MONDAY, SEPTEMBER 9, 2013**

PRESENT:

THE HONORABLE JAMES C. MAHAN, U.S. DISTRICT JUDGE

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David Oakes

Courtroom Administrator

Law Clerk(s)

Joy Garner

Reporter/Recorder

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**9:00 A.M.**

2:12-cr-00298-JCM-VCF

UNITED STATES OF AMERICA

v.

**JURY TRIAL**

ANDRONICO SALAZAR-LEZAMA (1)

(In Custody)

INTERPRETER

COUNSEL FOR GOVERNMENT:

Robert Bork, AUSA

Brandon Jaroch, AUSA

COUNSEL FOR DEFENDANT:

Dustin Marcello, CJA

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA  
LAS VEGAS, NEVADA  
COURTROOM 6A

**MONDAY, SEPTEMBER 9, 2013**

PRESENT:

THE HONORABLE JAMES C. MAHAN, U.S. DISTRICT JUDGE

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David Oakes

Courtroom Administrator

Law Clerk(s)

Joy Garner

Reporter/Recorder

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**9:00 A.M.**

2:12-cr-00319-JCM-GWF

UNITED STATES OF AMERICA

v.

**JURY TRIAL**

MARIA LARKIN (1)

(On Release)

COUNSEL FOR GOVERNMENT:

Cristina Silva, AUSA

COUNSEL FOR DEFENDANT:

Shari Kaufman, AFPD

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA  
LAS VEGAS, NEVADA  
COURTROOM 6A

**MONDAY, SEPTEMBER 9, 2013**

PRESENT:

THE HONORABLE JAMES C. MAHAN, U.S. DISTRICT JUDGE

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David Oakes

Courtroom Administrator

Law Clerk(s)

Joy Garner

Reporter/Recorder

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**9:00 A.M.**

2:12-cr-00429-JCM-GWF

UNITED STATES OF AMERICA

v.

CRAIG CURTIS SILL (1)

(On Bond)

**JURY TRIAL**

COUNSEL FOR GOVERNMENT:

Amber Craig, AUSA

COUNSEL FOR DEFENDANT:

Paul Riddle, AFPD

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA  
LAS VEGAS, NEVADA  
COURTROOM 6A

**MONDAY, SEPTEMBER 9, 2013**

PRESENT:

THE HONORABLE JAMES C. MAHAN, U.S. DISTRICT JUDGE

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David Oakes

Courtroom Administrator

Law Clerk(s)

Joy Garner

Reporter/Recorder

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**9:00 A.M.**

2:12-cr-00477-JCM-GWF

UNITED STATES OF AMERICA

v.

BRIAN CARL ZAKE (1)

(On Bond)

**JURY TRIAL**

COUNSEL FOR GOVERNMENT:

Andrew Duncan, AUSA

COUNSEL FOR DEFENDANT:

Paul Turner, AFPD

Paul Riddle, AFPD

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA  
LAS VEGAS, NEVADA  
COURTROOM 6A

**MONDAY, SEPTEMBER 9, 2013**

PRESENT:

THE HONORABLE JAMES C. MAHAN, U.S. DISTRICT JUDGE

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David Oakes

Courtroom Administrator

Law Clerk(s)

Joy Garner

Reporter/Recorder

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**9:00 A.M.**

2:13-cr-00095-JCM-PAL

UNITED STATES OF AMERICA

v.

**JURY TRIAL**

TRAVIS PAUL SCHULTZ (1)

(On Bond)

COUNSEL FOR GOVERNMENT:

Roger Yang, AUSA

COUNSEL FOR DEFENDANT:

Damian Sheets, Esq.

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA  
LAS VEGAS, NEVADA  
COURTROOM 6A

**MONDAY, SEPTEMBER 9, 2013**

PRESENT:

THE HONORABLE JAMES C. MAHAN, U.S. DISTRICT JUDGE

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David Oakes

Courtroom Administrator

Law Clerk(s)

Joy Garner

Reporter/Recorder

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**9:00 A.M.**

2:13-cr-00106-JCM-PAL

UNITED STATES OF AMERICA

v.

**JURY TRIAL**

JAMES GARNER (1)

(In Custody)

COUNSEL FOR GOVERNMENT:

Cristina Silva, AUSA

COUNSEL FOR DEFENDANT:

Paul Riddle, AFPD



UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA  
LAS VEGAS, NEVADA  
COURTROOM 6A

**MONDAY, SEPTEMBER 9, 2013**

PRESENT:

THE HONORABLE JAMES C. MAHAN, U.S. DISTRICT JUDGE

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David Oakes

Courtroom Administrator

Law Clerk(s)

Joy Garner

Reporter/Recorder

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**9:00 A.M.**

2:13-cr-00151-JCM-VCF

UNITED STATES OF AMERICA

v.

STUART BARLOW JOHNSON (1)

(On Bond)

**JURY TRIAL**

COUNSEL FOR GOVERNMENT:

Nicholas Dickinson, AUSA

Patricia Sumner, AUSA

Ryan Murguia, AUSA

COUNSEL FOR DEFENDANT:

Thomas Pitaro, Esq.

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA  
LAS VEGAS, NEVADA  
COURTROOM 6A

**MONDAY, SEPTEMBER 9, 2013**

PRESENT:

THE HONORABLE JAMES C. MAHAN, U.S. DISTRICT JUDGE

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David Oakes

Courtroom Administrator

Law Clerk(s)

Joy Garner

Reporter/Recorder

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**9:00 A.M.**

2:13-cr-00194-JCM-PAL

UNITED STATES OF AMERICA

v.

MARIA MONCERRAT LUNA (1)

(In Custody)

**JURY TRIAL**

COUNSEL FOR GOVERNMENT:

Robert Bork, AUSA

COUNSEL FOR DEFENDANT:

Monique Kirtley, AFPD

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA  
LAS VEGAS, NEVADA  
COURTROOM 6A

**MONDAY, SEPTEMBER 9, 2013**

PRESENT:

THE HONORABLE JAMES C. MAHAN, U.S. DISTRICT JUDGE

---

David Oakes

Courtroom Administrator

Law Clerk(s)

Joy Garner

Reporter/Recorder

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**9:00 A.M.**

2:13-cr-00200-JCM-VCF

UNITED STATES OF AMERICA

v.

**JURY TRIAL**

JAMES RAYMOND ROBERTS (1)

(On Bond)

COUNSEL FOR GOVERNMENT:

Roger Yang, AUSA

COUNSEL FOR DEFENDANT:

Damian Sheets, Esq.

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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,  Plaintiff,  v.  ,  Defendant.	2:-CR- JCM ( )
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JURY INSTRUCTIONS

JCM STOCK CRIMINAL JURY INSTRUCTION 3.1

**DUTIES OF JURY TO FIND FACTS AND FOLLOW LAW**

Members of the jury, now that you have heard all the evidence (and the arguments of the lawyers), it is my duty to instruct you on the law that applies to this case. A copy of these instructions will be available in the jury room for you to consult.

It is your duty to weigh and to evaluate all the evidence received in the case and, in that process, to decide the facts. It is also your duty to apply the law as I give it to you to the facts as you find them, whether you agree with the law or not. You must decide the case solely on the evidence and the law and must not be influenced by any personal likes or dislikes, opinions, prejudices or sympathy. You will recall that you took an oath promising to do so at the beginning of the case.

You must follow all these instructions and not single out some and ignore others; they are all important. Please do not read into these instructions or into anything I may have said or done, any suggestion as to what verdict you should return – that is a matter entirely up to you.

1 JCM STOCK CRIMINAL JURY INSTRUCTION – 3.2

2 **CHARGE AGAINST DEFENDANT NOT EVIDENCE–PRESUMPTION OF**  
3 **INNOCENCE–BURDEN OF PROOF**

4 The indictment is not evidence. The defendant has pleaded not guilty to the charge[s]. The  
5 defendant is presumed to be innocent unless and until the government proves the defendant guilty  
6 beyond a reasonable doubt. In addition, the defendant does not have to testify or present any  
7 evidence to prove innocence. The government has the burden of proving every element of the  
8 charge[s] beyond a reasonable doubt.

JCM STOCK CRIMINAL JURY INSTRUCTION – 3.3

**DEFENDANT’S DECISION NOT TO TESTIFY**

A defendant in a criminal case has a constitutional right not to testify. You may not draw any inference of any kind from the fact that the defendant did not testify.

1 JCM STOCK CRIMINAL JURY INSTRUCTION – 3.4

2 **DEFENDANT’S DECISION TO TESTIFY**

3 The defendant has testified. You should treat this testimony just as you would the testimony  
4 of any other witness.

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JCM STOCK CRIMINAL JURY INSTRUCTION – 3.5

**REASONABLE DOUBT–DEFINED**

Proof beyond a reasonable doubt is proof that leaves you firmly convinced the defendant is guilty. It is not required that the government prove guilt beyond all possible doubt.

A reasonable doubt is a doubt based upon reason and common sense and is not based purely on speculation. It may arise from a careful and impartial consideration of all the evidence, or from lack of evidence.

If after a careful and impartial consideration of all the evidence, you are not convinced beyond a reasonable doubt that the defendant is guilty, it is your duty to find the defendant not guilty.

On the other hand, if after a careful and impartial consideration of all the evidence, you are convinced beyond a reasonable doubt that the defendant is guilty, it is your duty to find the defendant guilty.

JCM STOCK CRIMINAL JURY INSTRUCTION – 3.6

**WHAT IS EVIDENCE**

The evidence you are to consider in deciding what the facts are consists of:

- (1) the sworn testimony of any witness; [and]
- (2) the exhibits received in evidence[.] [;and]
- (3) any facts to which the parties have agreed.

JCM STOCK CRIMINAL JURY INSTRUCTION – 3.7

**WHAT IS NOT EVIDENCE**

In reaching your verdict you may consider only the testimony and exhibits received in evidence. The following things are not evidence and you may not consider them in deciding what the facts are:

1. Questions, statements, objections, and arguments by the lawyers are not evidence. The lawyers are not witnesses. Although you must consider a lawyer's questions to understand the answers of a witness, the lawyer's questions are not evidence. Similarly, what the lawyers have said in their opening statements, [will say in their] closing arguments and at other times is intended to help you interpret the evidence, but it is not evidence. If the facts as you remember them differ from the way the lawyers state them, your memory of them controls.

2. Any testimony that I have excluded, stricken, or instructed you to disregard is not evidence. [In addition, some evidence was received only for a limited purpose; when I have instructed you to consider certain evidence in a limited way, you must do so.]

3. Anything you may have seen or heard when the court was not in session is not evidence. You are to decide the case solely on the evidence received at the trial.

JCM STOCK CRIMINAL JURY INSTRUCTION – 3.8

**DIRECT AND CIRCUMSTANTIAL EVIDENCE**

Evidence may be direct or circumstantial. Direct evidence is direct proof of a fact, such as testimony by a witness about what that witness personally saw or heard or did. Circumstantial evidence is indirect evidence, that is, it is proof of one or more facts from which you can find another fact.

You are to consider both direct and circumstantial evidence. Either can be used to prove any fact. The law makes no distinction between the weight to be given to either direct or circumstantial evidence. It is for you to decide how much weight to give to any evidence.

JCM STOCK CRIMINAL JURY INSTRUCTION – 3.9

**CREDIBILITY OF WITNESSES**

In deciding the facts in this case, you may have to decide which testimony to believe and which testimony not to believe. You may believe everything a witness says, or part of it, or none of it.

In considering the testimony of any witness, you may take into account:

- (1) the witness's opportunity and ability to see or hear or know the things testified to;
- (2) the witness's memory;
- (3) the witness's manner while testifying;
- (4) the witness's interest in the outcome of the case, if any;
- (5) the witness's bias or prejudice, if any;
- (6) whether other evidence contradicted the witness's testimony;
- (7) the reasonableness of the witness's testimony in light of all the evidence; and
- (8) any other factors that bear on believability.

The weight of the evidence as to a fact does not necessarily depend on the number of witnesses who testify. What is important is how believable the witnesses were, and how much weight you think their testimonies deserve.

1 JCM STOCK CRIMINAL JURY INSTRUCTION – 3.10

2 **ACTIVITIES NOT CHARGED**

3       You are here only to determine whether the defendant is guilty or not guilty of the charge[s]  
4 in the indictment. The defendant is not on trial for any conduct or offense not charged in the  
5 indictment.

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INSTRUCTIONS FROM THE PARTIES

JCM STOCK CRIMINAL JURY INSTRUCTION – 7.1

**DUTY TO DELIBERATE**

When you begin your deliberations, elect one member of the jury as your foreperson who will preside over the deliberations and speak for you here in court.

You will then discuss the case with your fellow jurors to reach agreement if you can do so. Your verdict, whether guilty or not guilty, must be unanimous.

Each of you must decide the case for yourself, but you should do so only after you have considered all the evidence, discussed it fully with the other jurors, and listened to the views of your fellow jurors.

Do not be afraid to change your opinion if the discussion persuades you that you should. But do not come to a decision simply because other jurors think it is right.

It is important that you attempt to reach a unanimous verdict but, of course, only if each of you can do so after having made your own conscientious decision. Do not change an honest belief about the weight and effect of the evidence simply to reach a verdict.



1 JCM STOCK CRIMINAL JURY INSTRUCTION – 7.2

2 **CONSIDERATION OF EVIDENCE–CONDUCT OF THE JURY**

3 Because you must base your verdict only on the evidence received in the case and on these  
4 instructions, I remind you that you must not be exposed to any other information about the case or  
5 to the issues it involves. Except for discussing the case with your fellow jurors during your  
6 deliberations:

7 Do not communicate with anyone in any way and do not let anyone else  
8 communicate with you in any way about the merits of the case or anything to do with  
9 it. This includes discussing the case in person, in writing, by phone or electronic  
10 means, via email, text messaging, or any Internet chat room, blog, website or other  
11 feature. This applies to communicating with your family members, your employer,  
12 the media or press, and the people involved in the trial. If you are asked or  
13 approached in any way about your jury service or anything about this case, you must  
14 respond that you have been ordered not to discuss the matter and to report the contact  
15 to the court.

16 Do not read, watch, or listen to any news or media accounts or commentary  
17 about the case or anything to do with it; do not do any research, such as consulting  
18 dictionaries, searching the Internet or using other reference materials; and do not  
19 make any investigation or in any other way try to learn about the case on your own.

20 The law requires these restrictions to ensure the parties have a fair trial based on the same  
21 evidence that each party has had an opportunity to address. A juror who violates these restrictions  
22 jeopardizes the fairness of these proceedings [and a mistrial could result that would require the entire  
23 trial process to start over]. If any juror is exposed to any outside information, please notify the court  
24 immediately.  
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JCM STOCK CRIMINAL JURY INSTRUCTION – 7.3

**USE OF NOTES**

Some of you have taken notes during the trial. Whether or not you took notes, you should rely on your own memory of what was said. Notes are only to assist your memory. You should not be overly influenced by your notes or those of your fellow jurors.

1 JCM STOCK CRIMINAL JURY INSTRUCTION – 7.4

2 **JURY CONSIDERATION OF PUNISHMENT**

3 The punishment provided by law for this crime is for the court to decide. You may not  
4 consider punishment in deciding whether the government has proved its case against the defendant  
5 beyond a reasonable doubt.

1 JCM STOCK CRIMINAL JURY INSTRUCTION – 7.5

2 **VERDICT FORM**

3 A verdict form has been prepared for you, which the attorneys may explain to you in closing  
4 argument. After you have reached unanimous agreement on a verdict, your foreperson will fill in  
5 the form that has been given to you, sign and date it and advise the bailiff that you are ready to return  
6 to the courtroom.

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JCM STOCK CRIMINAL JURY INSTRUCTION – 7.6

**COMMUNICATION WITH COURT**

If it becomes necessary during your deliberations to communicate with me, you may send a note through the marshal or bailiff, signed by your foreperson or by one or more of you. No member of the jury should ever attempt to communicate with me except by a signed writing, and I will communicate with any member of the jury on anything concerning the case only in writing or here in open court. If you send out a question, I will consult with the lawyers before answering it, which may take some time. You may continue your deliberations while waiting for the answer to any question. Remember that you are not to tell anyone – including me – how the jury stands, numerically or otherwise, on the question of the guilt of the defendant, until after you have reached a unanimous verdict or have been discharged.

[illegible]

# Sample of Plaintiff's Exhibit

Plaintiff Exhibit Sticker #1

# Sample of Defendants Exhibit

Defendant Exhibit Sticker #501